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12 SAMMY CUEVAS

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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN JOSE DIVISION**

18
19 SAMMY CUEVAS,

CASE NO. C 14-02540 BLF

20
21 Plaintiff,

STIPULATION AND
~~PROPOSED~~ ORDER TO STAY
CASE

22
23 v.

24
25 Location: Courtroom 3
26 Judge: Hon. Beth Labson Freeman

27 CAMPBELL PEACE OFFICER
28 ASSOCIATIONS' PORAC LDF PLAN,
PEACE OFFICERS RESEARCH
ASSOCIATION OF CALIFORNIA LEGAL
DEFENSE FUND, and DOES 1-10.

29
30 Defendants.

31
32 **STIPULATION**

33 In furtherance of judicial economy and to avoid potentially unnecessary expense,
34 the undersigned counsel for and on behalf of Plaintiff SAMMY CUEVAS ("Plaintiff")
35 and Defendant PEACE OFFICERS RESEARCH ASSOCIATION OF CALIFORNIA
36 LEGAL DEFENSE FUND ("PORAC LDF" or the "Fund") (collectively, the "parties")
37 wish to stay all proceedings in this case ("Civil Action") pending Plaintiff's completion
38 of the Fund's administrative claims procedures. Accordingly, Plaintiff and PORAC LDF
39 by and through their respective counsel hereby STIPULATE and AGREE as follows:

1 WHEREAS Plaintiff filed his initial Complaint in this action with the Santa Clara
2 County Superior Court on May 10, 2012, and subsequently filed a First Amended
3 Complaint on June 8, 2012;

4 WHEREAS Plaintiff filed a Second Amended Complaint on April 8, 2014, which
5 was served on the PORAC LDF on May 10, 2014;

6 WHEREAS PORAC LDF removed the Civil Action to this Court under federal
7 question jurisdiction;

8 WHEREAS PORAC LDF filed a Motion to Dismiss Plaintiff's Second Amended
9 Complaint on June 10, 2014, which argued that Plaintiff failed to exhaust his
10 administrative remedies under the LDF's internal claims and appeals procedure;

12 WHEREAS Plaintiff's Opposition to the Motion to Dismiss Plaintiff's Second
13 Amended Complaint was due on or about June 24, 2014;

14 WHEREAS PORAC LDF filed a Response in support of their Motion to Dismiss
15 Plaintiff's Second Amended Complaint on July 1, 2014;

16 WHEREAS Plaintiff filed a Motion to Set Aside Default on July 2, 2014;

17 WHEREAS the parties have discussed and agree that Plaintiff will return to the
18 administrative process to seek a final determination of his claim under the Fund;

20 WHEREAS the parties request a stay of all the proceedings in this matter at the
21 present time, including hearings, briefings, appearances, and any other deadlines imposed
22 by law or the Court, pending the Fund's final determination of Plaintiff's administrative
23 claim;

24 WHEREAS the parties further stipulate and agree that they will withdraw their
25 respective pending motions should the Court grant the stay;

26 WHEREAS the parties further stipulate and agree that the stay requested herein is
27 not requested for the purpose of delay and will not result in any prejudice to the parties or
28 the Court:

1 **IT IS THEREFORE STIPULATED AND AGREED** by Plaintiff and PORAC
2 LDF, by and thorough their respective counsel, that the Court is respectfully requested to
3 order that:

4 1. This action is hereby stayed pending the Fund's final determination of the
5 Plaintiff's claim through the Fund's administrative claims process; all existing
6 case deadlines, including the deadline (1) to meet and confer regarding initial
7 disclosures (9/30/14), (2) to file the ADR Certification (9/30/14), (3) to file a
8 Stipulation to ADR Process (9/30/14), (4) to complete Initial Disclosures, (5)
9 to file a Rule 26(f) report (10/30/14), and (5) for the Case Management
10 Conference (11/6/14), are taken off calendar;
11
12 2. PORAC LDF's MOTION to Dismiss the Second Amended Complaint (Docket
13 Item No. 9) is WITHDRAWN WITHOUT PREJUDICE;
14
15 3. Plaintiff's Motion to Set Aside Default (Docket Item No. 11) is
16 WITHDRAWN AS MOOT;
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18 4. Due to what may be a period of extended inactivity while the administrative
19 claims process is completed, the clerk of the court shall administratively close
20 the file; and
21
22 5. The Plaintiff shall provide notice to the Court within one week at the
23 conclusion of the administrative claims process. In that notice, the Plaintiff
24 shall state whether or not this matter should be reopened and a whether a case
25 management conference should be scheduled.

1 **IT IS SO STIPULATED.**

2
3 Dated: July 24, 2014

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5 PICONE & DEFILIPPIS, A P.L.C.

6 BY: /s/ Steve M. Defilippis

7 Steve M. Defilippis
8 Andrew Velazquez
9 Attorneys for Plaintiff
10 SAMMY CUEVAS

11
12 Dated: July 24, 2014

13 TRUCKER ♦ HUSS

14 BY: /s/ Clarissa A. Kang

15 R. Bradford Huss
16 Clarissa A. Kang
17 Michelle S. Lewis
18 Attorneys for Defendants
19 PEACE OFFICERS RESEARCH
20 ASSOCIATION OF CALIFORNIA
21 LEGAL DEFENSE FUND

22 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

23
24 Dated: R. Bradford Huss

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26 
27 HON. BETH LABSON FREEMAN

28 United States District Judge